IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL APPLICATION NO.56 OF 2006
IN
FAMILY COURT APPEAL NO.23 OF 2006

Mrs.Kamal Laxman Vichare — Applicant
vs.
Laxman K. Vichare — Respondent

Mr.J.M.Puranik for the applicant.

Mr.S.P.Kadam with Mr.J.B.Chaudhary for the respondent.

**CORAM : R. M. LODHA &**
**A.S.BAGGA, JJ**.

**DATED : 30th June, 2006**

**P.C.**

Heard.

2. We shall refer to the parties as husband and wife. In our order dated 23rd June, 2006 we recorded the statement made on behalf of the husband that the husband would remain personally present on the next date. We are informed by the advocate for the husband that due to the old age, the husband is not able to attend the Court.

3. The wife filed the petition for restitution of conjugal rights. In that petition, initially an order of interim maintenance was passed whereby husband was directed to pay the maintenance at the rate of

Rs.5,000/- per month to the wife. The husband challenged that order by filing the writ petition before this Court. Vide its judgment and decree dated 28th October, 2005 the Family Court No.II, Pune has directed the husband to resume cohabitation with the wife. In that backdrop, the Family Court declined award of any maintenance to the wife. The said judgment and decree dated 28th October, 2005 is under challenge at the instance of the husband. The writ petition filed by the husband challenging the interim order of maintenance was disposed of as infructuous as the main petition itself had been decided by the Family Court. To complete the narration of facts, it may be noticed here that in the writ petition filed by the husband, this Court by way of an interim order stayed the order of interim maintenance passed by the Family Court.

4. Now, by means of this Civil Application, the wife prays for interim maintenance.

5. The husband is said to be 84 years old and the wife is 77 years old. According to wife, the husband runs two poultry farms under the name and style as Prabhavi Poultry Farm and Subhash Poultry Farm. The husband is said to be builder and deals with the buying and selling of immovable properties. According to the wife, the husband earns about Rs.2,00,000/- per month.

6. On the other hand, according to the husband, his annual income is about Rs.65,000/- and for that he relies upon his Income Tax Return for the Assessment Year 2001-2002. According to the husband, the wife has income from agricultural properties and also from other investments.

7. That the parties have been living separately for more than 20 years is not in dispute. The wife does have income of her own is clear from the Income Tax return.

8. Taking overall facts and circumstances of the case into consideration, we are of the view that husband must pay to the wife monthly maintenance at the rate of Rs.3,500/- per month from 9th March, 2006. Hence the order:

(i) The husband (respondent) shall pay to the wife (applicant) maintenance pendente lite at the rate of Rs.3500/- (Rupees three thousand five hundred) per month from 9th march, 2006.

(ii) The arrears of maintenance for the period from 9th March, 2006 to 30th

June, 2006 shall be paid by the husband to the wife on or before 15th July, 2006.

(iii) The maintenance for the month of July, 2006 shall be paid on or before 7th July, 2006 and for the subsequent months on or before 7th of each month.

(iv) The payment of maintenance shall be made by the husband to the wife by way of Bankers cheque/pay order and shall be sent by Registered Post at her address mentioned in the cause title of the appeal.

. Civil Application stands disposed of.

**(R.M. LODHA,J.)**

**(A.S. BAGGA,J.)**